



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER  
GOVERNOR

Certified Mail: 7000 0600 0027 1155 3137

July 27, 2009

Mr. Jeff Williams  
Division Chief  
Sutter County Environmental Health Services  
1130 Civic Center Blvd.  
Yuba City, California 95993

Dear Mr. Williams:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Sutter County Certified Unified Program Agency (CUPA) on May 13 and 14, 2009. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review; I find that Sutter County's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Mary Wren-Wilson every 90 days after the evaluation date. The first deficiency progress report is due on August 12, 2009.

Cal/EPA also noted during this evaluation that Sutter County has worked to bring about a number of local program innovations, including: pursuing an increasingly proactive Inspection and Enforcement program, and has an excellent UST program that includes well done permits, highly organized files, and superior inspectors. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

Mr. Jeff Williams  
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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

[Original Signed by Don Johnson],

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure

cc: Sent via email:

Mr. Sukh Sahota, CUPA Manager  
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Mr. Terry Snyder  
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Ms. Jennifer Lorenzo  
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Mr. Mark Pear  
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Mr. Jeff Williams  
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cc: Sent via email:

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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

**CUPA:** County of Sutter

**Evaluation Date:** May 13 and 14, 2009

### **EVALUATION TEAM**

**Cal/EPA:** Mary Wren-Wilson  
**SWRCB:** Terry Snyder  
**OSFM:** Jennifer Lorenzo  
**DTSC:** Mark Pear  
**CalEMA:** Jack Harrah

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Mary Wren-Wilson at (916) 323-2204.

### **Preliminary Corrective Action**

#### **Deficiency**

#### **Action**

<b>1</b>	<p>The CUPA Annual Reports 2, 3, 4, and Semi-Annual Report 6 did not accurately reflect the activities of the CUPA during the past three reporting years.</p> <p>For example:</p> <p>The fiscal year (FY) 2005/2006 Annual Single Fee Report 2 showed that the CUPA waived \$665.70 of its single fees, but did not disclose the amount of surcharges waived. Examination of records showed that the fees were billed in error and were not collected, but recorded as waived. The number of stationary sources was identified, but the number of businesses subject to California Accidental Release Prevention (CalARP) surcharge was inaccurately reported as "0." The FY 2006/2007 Report 2 showed incorrect surcharge totals (row F). The FY 2007/2008 Report 2 showed an incorrect surcharge total for the amount billed (row F, column 1). Also the number of underground storage tank (UST)</p>	<p>By September 30, 2009, the CUPA will ensure that single fee, inspections and enforcement actions are accurately reported in the 2008/2009 Annual Summary Reports 2, 3, and 4.</p> <p>By September 1, 2009, the CUPA will ensure that the information reported on the Semi-Annual Report 6 will be as accurate as possible.</p>
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	<p>facilities was reported as 45, but the Report 3 had 46.</p> <p>The 2007/2008 Inspection Summary Report (Report 3) did not report any CalARP audits. Both the 2006/2007 and the 2007/2008 CalARP Performance Audits indicate that three CalARP audits were underway at the time of the self-audit. In addition, the number of routine inspections and the number of return to compliance within a timeframe were all reported as zeros ("0") in the last three years.</p> <p>The 2007/2008 Self Audit states that, under the business plan program, inspections revealed two businesses that had violations, and that these violations were corrected within the statutory time frame. Report 4 for the last three years did not indicate any enforcement, including informal enforcement.</p> <p>The CUPA is not reporting all Routine Inspections conducted during the reporting period for Report 6. The CUPA UST inspector is documenting all Routine Inspections in a spreadsheet but is not transferring that information to the required report.</p> <p><b>CCR, Title 27, Section 15290</b> <b>CCR, Title 23, Sections 2713(c) [Cal/EPA, DTSC, SWRCB]</b></p>	
2	<p>Based on the submitted Annual Single Fee Summary Report 2, the CUPA is not assessing the state surcharges for some of its regulated businesses:</p> <ol style="list-style-type: none"> <li>In fiscal year (FY) 05/06, the CUPA did not assess 60% (\$7,248.00) of the CUPA oversight surcharge, 66% (\$2,160.00) of the CalARP surcharge, and 77% (\$1,290.00) of the UST surcharge.</li> <li>In FY 06/07, the CUPA did not assess 21% (\$2,604.36) of the CUPA oversight surcharge and 67% (\$1,249.50) of the UST surcharge.</li> <li>In FY 07/08, the CUPA did not assess</li> </ol>	<p>Beginning immediately, the CUPA will assess all applicable state surcharges on all of its regulated facilities.</p> <p>In addition, the CUPA will assess and submit all uncollected state surcharges for fiscal years 05/06, 06/07, and 07/08.</p> <p>With the first deficiency progress report, the CUPA will submit one of the following:</p> <ul style="list-style-type: none"> <li>- A plan for assessing and submitting all applicable state surcharges for fiscal years 05/06, 06/07, and 07/08.</li> </ul>

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	<p>33% (\$715.55) for UST surcharge.</p> <p><b>HSC, Chapter 6.11, Section 25404.5 (b)(1); and CCR, Title 27, Sections 15210 (l), and 15250 (a)(3) and (b)(1), 15180(e)(5)(C) [Cal/EPA]</b></p>	<p>Or</p> <p>- A financial audit showing why the fees were not required to be assessed and submitted for fiscal years 05/06, 06/07, and 07/08.</p> <p>[Note: As of July 1, 2009, the CUPA's are to begin assessing an additional \$25 per regulated business for the next three fiscal years. The money will be used to fund the statewide electronic reporting of Unified Program information per Assembly Bill 2286 (Feuer), which became effective January 1, 2009. For more information, refer to the electronic reporting on the Cal/EPA Unified Program Web site at <a href="http://www1.calepa.ca.gov/CUPA/EReporting/">http://www1.calepa.ca.gov/CUPA/EReporting/</a>. A new Surcharge Transmittal Report (Report 1) will be developed so that CUPA's may disclose the amount specifically intended for the electronic reporting surcharge.]</p>
3	<p>The CUPA's UST facility files reviewed did not contain Designated Operator/Owner Understanding and Compliance statements or they were not current.</p> <p>Since January 1, 2005, owners of underground storage tank systems shall submit a signed statement to the local agency indicating that the owner understands and is in compliance with all applicable underground storage tank requirements, and identifying the designated UST operator(s) for each facility owned. The owner shall inform the local agency of any change of designated UST operator(s) no later than 30 days after the change.</p> <p><b>CCR, Title 23, Section 2715(a) [SWRCB]</b></p>	<p>By May 29, 2009, the CUPA will review UST files for the required statements and will request these to be submitted during the annual inspections from the UST owner/operators as necessary.</p>
4	<p>The CUPA's UST facility files reviewed did not contain monitoring or response plans or they were not current.</p>	<p>The CUPA will request monitoring and response plans to be submitted during the annual inspections from the UST owner/operators as necessary.</p> <p>By May 14, 2010 all UST facility files will contain approved monitoring and response plans. Also the CUPA should update its files</p>

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	<b>CCR, Title 23, Section 2632(d), 2711(a) [SWRCB]</b>	with the new Forms A (Facility Information), B (Tank Information), and D (Monitoring) which contain new fields of information not on the old forms. This is part of the new Title 27 regulations adopted last year.
<b>5</b>	<p>The UST plot plans did not contain all the required elements. The plot plans were missing the location(s) of where the monitoring will be performed. Examples of missing locations include the sensors for tanks, sumps, under-dispenser containments (UDCs), line leak detectors, and monitoring panels for automatic tank gauge (ATG) and alarms.</p> <p><b>CCR, Title 23, Sections 2632(d)(1)(C) and 2641(h) [SWRCB]</b></p>	Beginning immediately, UST plot plan requirements will be modified to include location of all leak detection monitoring equipment. The CUPA will request for updated plot plans to be submitted by the time the UST facility is annually inspected. In addition, the CUPA will ensure that new permit application materials also contain completed plot plans. By May 14, 2010, the CUPA will ensure that all UST plot plans contain all the required elements.
<b>6</b>	<p>The CUPA inspector has not been trained or made aware of the need to report Significant Operational Compliance (SOC) violations after the routine inspection on the Report 6 and therefore, the CUPA does not report SOC criteria on the Semi-Annual Report 6.</p> <p><b>CCR, Title 23, Sections 2713(c)(4) CCR, Title 27, Sections 15290(b) [Cal/EPA &amp; SWRCB]</b></p>	<p>Before the next routine inspection of an UST facility, the CUPA UST inspectors will review and study the SOC Matrices for California which include the Release Detection Matrix and Release Prevention Matrix. The CUPA can also review the SOC Training PowerPoint presentation developed by SWRCB. Additionally, the SWRCB is available to conduct training and assist with identifying SOC criteria on the CUPA's Compliance Inspection Checklist.</p> <p>On the first progress report, the CUPA shall include the status of the UST inspectors' reviews of the SOC Matrices for California as evidenced via a signature sheet or similar form.</p>
<b>7</b>	<p>The CUPA is not verifying that the information on the Hazardous Materials Inventory statements is being entered completely by each regulated business. For example, five of the eight files reviewed did not contain some required information. Some missing information are as follows:</p> <ul style="list-style-type: none"> <li>a. Chemical names/common names – two statements stated “mixtures – see MSDS;”</li> <li>b. Fire code hazard classes;</li> <li>c. Chemical location; and</li> </ul>	<p>By July 13, 2009, the CUPA will develop a plan to ensure that all information on the inventory statements is complete.</p> <p>On the first progress report, the CUPA will submit sample inventory statements recently received by the CUPA.</p>

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	<p>d. Hazardous Component.</p> <p><b>CCR, Title 19, Section 2729.2 (d); and CCR, Title 24, Part 9, Chapter 27, Sections 2701.5.1 and 2701.5.2 [OSFM]</b></p>	
<p><b>8</b></p>	<p>The CUPA missed the application of one regulation during the hazardous waste oversight inspection. During the hazardous waste generator inspection, the following was noted:</p> <p>The inspector overlooked whether the facility had maintained its hard plumbed eyewash as required by code.</p> <p><b>CCR, Title 22, Section 66262.34(a) &amp; Section 66265.33 [DTSC]</b></p>	<p>On the first progress report, the CUPA inspector shall send documentation that the facility has corrected this deficiency.</p>

**CUPA Representative**

Suhk Sahota  
(Print Name)

Original Signed  
(Signature)

**Evaluation Team Leader**

Mary Wren-Wilson  
(Print Name)

Original Signed  
(Signature)



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**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

1. **Observation:** CalEMA staff accompanied both CUPA staff and Sutter County Agricultural Commissioner staff on Unified Program inspections at a home improvement/nursery/hardware store and a rice grower, respectively. Each inspector extensively covered all of the elements of the business plan program, verified the inventory and ensured that the site maps were current, reviewed the emergency response plans and training plans. Each inspection was also a generator inspection, and the inspectors asked about universal waste disposal.

**Recommendation:** These were excellent business plan inspections. CalEMA recommends the CUPA continue to conduct its Unified Program and generator inspections in this manner.

2. **Observation:** OSFM observed that the CUPA generally forwards copies of business plan documents and information to local fire agencies that are responsible for protection of public health and safety and the environment immediately upon receipt or within 15 days as required by law. In addition, based on interviews with two fire agencies within the county, fire agencies have been satisfied with the business plan information from the CUPA.

**Recommendation:** OSFM recommends the CUPA continue to submit the business plans to fire agencies and develop a tracking mechanism, or have transmittal sheets, to ensure that business plans are forwarded timely to the appropriate fire agencies within the county.

4. **Observation:** OSFM observed that the CUPA does not meet with its fire chiefs on a regular basis. The CUPA occasionally has informal discussions with the Sutter County Fire Chief, since the fire chief and the CUPA's office are in the same building complex.

**Recommendation:** The CUPA is encouraged to meet with its fire chiefs on a regular basis for formal discussions on coordination, consolidation, and making consistent the Unified Program. In such meetings, the CUPA may ask if the fire agencies require any additional information on the business plan per the Hazardous Materials Management Plan and Hazardous Materials Inventory Statement requirements of the California Fire Code.

5. **Observation:** The CUPA's Inspection and Enforcement (I&E) Program Plan contains outdated information and inappropriate citations on the Aboveground Petroleum Storage Act (APSA). The CUPA has been provided with the appropriate citations. The CUPA also needs to provide information on how it plans to minimize or eliminate duplication, inconsistencies, and lack of coordination.

**Recommendation:** The CUPA is encouraged to update its I&E Program Plan with the appropriate information and citations for the APSA program, and develop a provision for minimizing or eliminating duplication, inconsistencies, and lack of coordination. Once revised, and for any future revisions/updates, all of the CUPA's staff is encouraged to review the I&E Program Plan.

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- 6. Observation:** The CUPA's inspection reports/checklists, excluding the hazardous waste generator program, do not distinguish among Class I, Class II, and minor violations.

**Recommendation:** The CUPA should modify its inspection checklists/reports so that each violation can be classified separately to distinguish between enforcement modes for Class I, Class II and minor violations. Classification of the violations will also assist in reporting information on the Annual Enforcement Summary Reports. One reference is the June 2006 "Violation Classification Guidance for Unified Program Agencies," which is available on the Cal/EPA Unified Program Web site at <http://www.calepa.ca.gov/CUPA/Documents/Inspection/ViolationGuide.pdf>.

- 7. Observation:** The CUPA has not been documenting in its inspection reports that consent has been granted by the owner/operator to enter his/her place of business to conduct an inspection.

**Recommendation:** It is recommended the CUPA develop an inspection report to document that consent has been granted by the owner/operator on the form. Documentation of consent only serves to strengthen any potential enforcement case defeating any potential challenge that the 4<sup>th</sup> amendment may have been violated.

- 8. Observation:** Ten hazardous waste inspection reports were reviewed. The CUPA had Return to Compliance (RTC) certificates from those facilities found to have minor violations. The RTCs were within the 30 day timeframe mandated by law except for two.

**Recommendation:** The DTSC recommends the CUPA continue to consistently track RTC.

- 9. Observation:** The last three annual inspection summary reports indicate the following:
- 1) 76 hazardous waste generators were identified in fiscal year (FY) 05/06 of which 8 were inspected,
  - 2) 170 hazardous waste generators were identified in FY 06/07 of which 57 were inspected,
  - 3) 257 hazardous waste generators were identified in FY 07/08 of which 85 were inspected, and
  - 4) 284 hazardous waste generators were identified in FY 08/09 of which 87 were inspected

The CUPA has inspected approximately 80% of all known facilities generating hazardous waste over the past three fiscal years. The total number of businesses identified in FY 07/08 and FY 08/09 may be inaccurate due to software issues; the number has been recently identified to be lower.

A vast improvement has been made since the last evaluation with the employment of an additional CUPA inspector. Hazardous waste generator inspections are now being routinely done.

**Recommendation:** The DTSC recommends the CUPA continue with their present inspection frequency of 33% per year. For those facilities inspected and evaluated for their Hazardous Materials Business Plan: Count these as hazardous waste generator inspections, even if they are CESQG (Conditional Exempt Small Quantity Generator).

- 10. Observation:** The CUPA's Web site contains the Unified Program Consolidated Forms (UPCF's) for hazardous materials business plans.

**Recommendation:** The CUPA is encouraged to include the other UPCF's, which are available for download on the Cal/EPA Unified Program publications and forms internet site. The CUPA may also

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provide a link to this site. In addition, the CUPA may provide a link to Unidocs' Web site, which provides UPCF's and templates for emergency response, consolidated contingency plans, and training plans.

**11. Observation:** The CUPA has submitted its last quarterly RCRA LQG data to DTSC.

**Recommendation:** Please continue with quarterly updates.

**12. Observation:** The SWRCB noted that the CUPA has submitted all of their required Reports 6 on time.

**Recommendation:** The CUPA is encouraged to continue their submittal of reports in a timely manner.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA is pursuing an increasingly proactive Inspection and Enforcement program. Examples include:
  - The CUPA settled an Administrative Enforcement Order against Boones Mini Market for \$2,680.00 for the facility failing to monitor an underground storage tank. The case was resolved by closing the tanks in place.
  - The CUPA referred a criminal enforcement case to the Sutter County District Attorney's Office against an auto dismantler/scrap yard (enforcement confidential) for the illegal storage of a hazardous waste, illegal disposal of a hazardous waste, and failure to clean up a hazardous waste discharge.
2. The CUPA has an excellent UST program that includes well done permits, highly organized files, and superior inspectors. Examples include:
  - The UST permit is complete, includes all required elements, and is excellent in describing the monitoring in place at each facility.
  - The CUPA's UST files are highly organized with sections for each type of activity document generated for an UST facility (e.g. permits, inspections, certifications, and correspondence etc). The files are filed chronologically and it is easy to find documents in the files.
  - On May 4, 2009, Inspector Hardeep Bains conducted the UST site inspection in a thorough and professional manner. He used a detailed Inspection Checklist to document the scope of the inspection and all the required elements in compliance. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. Hardeep did an extensive pre-review of the UST file to verify operational compliance and that all required paperwork was in the file. Hardeep also asked for suggestions on how to improve his inspection technique and procedure.